

**Congress of the United States**  
**Washington, DC 20515**

February 13, 2002

Mr. Brian Roberts  
President, Comcast Corporation  
1500 Market Street  
Philadelphia, PA 19102-2148

Dear Mr. Roberts:

I am writing with respect to recent media reports regarding Comcast's use of cable facilities to gather personal data from consumers of Comcast's broadband telecommunications service. I have concerns about the allegations raised in these reports and the nature and extent of any transgressions of the law that may have resulted in consumer privacy being compromised.

Consumer privacy in the digital era is fundamental to ensuring trust between citizens and the owners of nation's communications networks and services. The cable industry has a long history of safeguarding consumer privacy with respect to the television viewing habits of consumers through its provision of cable service. I believe that many consumers would be understandably concerned if our nation's cable operators begin to monitor Americans' use of cable systems for other services such as telecommunications services, including broadband access to Internet via cable modems.

As you know, the cable industry has obligations to protect consumer privacy that are contained in Section 631 of the Communications Act (47 U.S.C. 551). It is clear that in enacting Section 631, Congress intended to place a high priority on consumer privacy and for that reason the applicability of Section 631 is very broad. The general requirement of Section 631 is that cable operators obtain "prior written or electronic consent" in order to utilize any personal information gathered from subscribers. These privacy obligations, however, are not limited to personal information gathered through a customer's use of a "cable service." Rather, the privacy requirements of Section 631 apply to "any wire or radio communications service provided using any of the facilities" of the cable system, not solely a consumer's use of cable service.

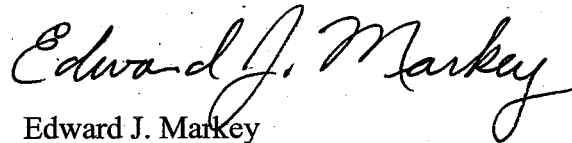
As part of the order by which the Federal Communications Commission (FCC) approved AOL-Time Warner merger last year, the FCC reiterated that, with limited exceptions, a "cable operator may not use the cable system to collect personally identifiable information nor may the cable operator disclose personally identifiable information without the prior

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written or electronic consent of the subscriber." As part of the order, the FCC required AOL-TW to certify compliance with the legal privacy obligations contained in the law. (From AOL-TW Merger FCC Order (CS Docket 00-30), adopted 1/11/01, released 1/22/01, paragraphs 277-79.)

I would greatly appreciate your response at the earliest opportunity. I also respectfully request a clarification of Comcast's current policy for collection and use of subscriber information and Comcast's position as to whether it intends to provide consumers of its telecommunications services, such as its cable modem service, with the right to affirmatively grant consent to data collection and use consistent with the consumer privacy requirements placed upon cable operators embodied in Section 631 of the Communications Act. I thank you in advance for your time and attention to this matter. If you have any questions with respect to these issues or my comments please feel free to call me or have your staff contact Colin Crowell in my office at (202) 225-2836.

Sincerely,

A handwritten signature in black ink that reads "Edward J. Markey". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Edward J. Markey  
Ranking Democrat  
House Subcommittee on  
Telecommunications and the Internet